

IBC Submission to FSRA Progress Update and Outlook for 2020 – 2021 Priorities

November 18, 2019

INTRODUCTION

- Overall FSRA's Priorities and Budget document brings a great deal of energy and enthusiasm to fulfilling FSRA's ambition to be a thoroughly modern regulator: terms such as Principles Based Regulation (PBR), evidence-based decision-making, reducing regulatory burden, achieving high service standards, as well as protecting consumers, are explained and used frequently. Going into its second year of operation FSRA remains strongly committed to the vision of modern regulation that was articulated by the Expert Panel and cemented in its founding legislation.
- FSRA is doing a good job in transforming intentions into change measures that promise positive outcomes for consumers and for the insurance industry. For the P&C insurance sector this list highlights some examples.
 - Implementing streamlined processes for standard auto rate filings that include a realistic framework for less costly and less lengthy simplified filings.
 - Authorizing long overdue driver access to using electronic proof of auto insurance.
 - Taking the decision to harmonize, by this end of this year, the Ontario regulator's expectations of insurers for the Fair Treatment of Consumers (FTC) with the national FTC standard published by the Canadian Council of Insurance Regulators (CCIR).
 - Participating in the Ministry of Finance's consultation process on key elements of auto insurance reform including the dysfunctional medical assessment system.
 - Consulting with stakeholders on a comprehensive fraud and abuse reduction strategy with the expectation that by the end of the current fiscal year, FSRA will deliver to government its recommendations for the content of the strategy. Depending upon the government's response, FSRA plans to undertake a variety of fraud and abuse initiatives next year.

These are all very positive accomplishments – for the consumer and for the industry. And, as is clear from FSRA's 2020/21 priorities and budget document, much work remains to be done on certain issues that call for significant achievements in the very near future. Chief among these issues are: undertaking the extensive work involved in implementing individual reform measures after auto insurance reform directions are received from the Ministry of Finance; building on the work relating to rate regulation to enhance competition and innovation, and; making the licensing processes for agents, adjusters and companies more cost-effective and efficient.

COMMENTS ON DRAFT PRIORITIES FOR 2020-2021

- Looking forward to FSRA's priorities and plans for the P&C insurance sector in 2020-21, we are disappointed that government decision-making on auto insurance reform has not yet reached a stage where FSRA can begin planning the implementation processes for reform. It remains our hope that FSRA will receive directions on reforming the system that will allow implementation to begin in earnest over the coming year.
- As a key requirement for success in meeting the challenge of implementing what we hope will be transformational change to Ontario's auto insurance system, FSRA will need to have in place the right resources to enable it to act nimbly and expertly. While we note that FSRA's draft budget indicates a substantial correction in the representation of resource allocations away from market conduct in favour of work on the auto insurance product, we understand that this shift only formally

recognizes the regulator's current spending pattern. We expect that further re-profiling of the sectoral spending allocations is likely to become necessary once the government provides direction on the scope of auto insurance reforms.

- FSRA needs to acquire the legal authorities necessary for enabling expeditious action in implementing a number of the critically important measures for removing unnecessary cost and inefficiency from the auto insurance system. We understand that the decision to grant these authorities to FSRA rests with the government. Measures such as restructuring the costly medical assessments system, revising the no-fault benefits scheme for injuries with a range of severities, and enhancing the room for consumer choice in the purchase of benefits will take time and will need to be closely managed by a hands-on regulator. Consequently, we urge FSRA – as the industry is itself doing – to advocate to the government on the importance of effecting the legislative transfer to FSRA of the authorities it will need to begin implementing significant changes to auto insurance in the near future.
- Regarding the other activities relating to auto insurance that FSRA is proposing for priority focus in 2020/2021, there are a number of items that we are pleased to see on the list. Amongst these, particular note is made of the commitments to:
 - Transform auto insurance rate and policy form/endorsement regulation: High costs and very slow regulatory response times have often stood in the way of individual insurers developing innovative projects. The result has been to delay the introduction of new ideas to the market and depress the potential for competition in the industry's response to changing consumer needs and preferences. A good example is the onerous regulatory processes and rules that have impeded development of a competitive market for Usage-Based-Insurance (UBI) products.¹
 - Streamline licensing approvals for agents, adjusters and companies.
 - Seek consistent application of Fair Treatment of Consumers guidance across Canada: It is our understanding that FSRA expects to adopt the Canadian Council of Insurance Regulators (CCIR) FTC standard before the end of this year. Once Ontario moves into alignment with the national standard, it is our hope that FSRA will work with its CCIR partners to make needed improvements to the oversight mechanisms associated with the standard, in particular to:
 - ~ Examine the *Annual Statement on Market Conduct* to ensure that the data collected strikes an appropriate balance between the benefit of the data for supervisory purposes and the cost to insurers of complying with the data-reporting requirement.
 - ~ Inform the industry on how regulators are using the information collected through the Annual Statement.
 - ~ Report back to the industry on trends in market conduct-related activity as reported through the annual survey.

¹ At present, our industry is particularly anxious to see a breakthrough in the regulator's approach to enabling quicker introduction of differentiated UBI products; these can not only give drivers greater control over their premiums but also – to the extent that there is broad public take-up of competitive UBI options – improve driving and road safety.

- Improve auto insurance data collection, develop new reporting, and analytical tools to enable proactive regulatory monitoring and evidence-based policy decisions, and report on the health of Ontario's auto insurance system. These are critically important undertakings for the new regulator. The industry has made no secret of its repeated disappointment with former regulators' failure to recognize and take action to resolve emerging problems in auto insurance, instead waiting for initially small problems to grow until they become major disruptors of cost, price, and competitive market stability.

CONCERNS AND QUESTIONS

- At the same time that we welcome many of FSRA's proposed priorities for 2020-21, especially those highlighted above, the industry has questions and concerns regarding a few of the planned activities. One of these relates to the undertaking stated on page 19 of the Priorities document, whereby FSRA will "improve auto insurance rating and underwriting accuracy by developing and implementing new supervisory processes focused on advanced risk management and compliance systems within regulated entities."

It is unclear to us what the intent of this statement is. Also unclear are the problem(s) that the new supervisory processes might be expected to address. FSRA is aware of the very stringent requirements for risk management, governance, and oversight functions (e.g. actuarial, accounting, financial, compliance) that must be followed by the majority of Ontario insurance companies that are subject to solvency regulation by the federal Office of the Supervisor of Financial Institutions (OSFI). There are also high standards of practice and governance for the technical professions that play the major role in insurance rating and underwriting. In light of the many safeguards for ensuring excellence in rating and underwriting of insurance products, we wonder what FSRA has in mind as regards "new supervisory processes ... to improve auto insurance rating and underwriting". We are anxious to learn more about this undertaking, including what it might entail, how it might complement or duplicate other regulatory obligations that insurance companies must adhere to, what consultation processes are envisioned for the initiative, and what cost-benefit analysis will be applied to it.

- A second activity proposed by FSRA that has raised questions within the industry is the intention to focus its monitoring activities on areas such as "the circumvention of 'take all comers' auto insurance requirements". The insurance industry sees a healthy insurance marketplace as one in which the premiums charged to individuals can be closely matched with the level of driver risk and where different companies can choose to focus and acquire expertise in servicing different books of business. A 'take all comers' rule runs counter to these views. Not only does the rule perpetuate systemic cross-subsidization of poor drivers by good drivers, it is also the case that when all companies are required by law to insure all but the very poorest risks, an opportunity to improve overall industry efficiency through specialization is lost. Also lost is the value of changes in residual market populations as an indicator of market health or failure.

The industry asks to engage in further discussion with FSRA about this proposed activity.

- The industry is interested in further discussion on FSRA's proposal to "integrate data from existing third party data sources, including process, governance and required technical infrastructure". We agree with the regulator's need for ready access to all data that may be relevant to proactivity and

evidence-based decision-making. At the same time, we are cognizant that a major “third party data source” is Health Claims for Auto Insurance (HCAI), which is owned and fully funded by the industry and, although managed by IBC, is governed by a separate board of the directors comprising representatives from the insurance industry and health care communities. Because its principal purpose is to facilitate the efficient transfer of information between thousands of health service providers and individual auto insurers, HCAI is a complex IT system. IBC has a solid record of providing data to the regulator on request and prioritizing these requests. It needs to be understood that major changes to the HCAI system will carry implications for Accident Benefits claims transactions and are both costly to the industry and require time to implement.

COMMENTS ON FSRA’S PROPOSED BUDGET

- Our comments on FSRA’s budget proposal are limited insofar as it calls for only a 2% increase in the regulator’s overall operating budget in 2020/21 and a decline in spending is projected for the P&C insurance sector.
- Earlier we noted that once the government provides direction on the scope of reforms, there is likely to be a need for further re-profiling of the sectoral spending allocations to accommodate FSRA’s role in implementing a variety of reform measures. This seems a reasonable expectation in light of the complexities and many parts that make up Ontario’s auto insurance system and the government’s stated goal of carrying out transformational reform of the system.
- An additional observation on the draft budget is that it projects a more than doubling of the amount of insurer subsidization of health service licensing from \$384K to \$882K since last year. The industry strongly supports continuation of the licensing regime for health care providers (HCPs), which provides a measure of defense against the misuse of insurance resources by med/rehab suppliers while also giving HCPs access to direct billing of insurers. For the future, we envision opportunities to expand the functionality of the licensing regime in improving the standard of care provided to the people injured in motor vehicle accidents. Consequently, the industry is not objecting to the increase in its subsidy to HCP licensing. However, we will be very interested in working with FSRA and the med/rehab community to enhance the role of licensing in protecting and advancing the interests of injury victims and premium-paying drivers.

CONCLUDING REMARKS

- As described through this submission, Insurance Bureau of Canada endorses many elements of the proposed prioritization of FSRA’s resources and efforts over the coming year. We expect that there will be opportunities for further discussion where concerns about specific priority proposals have been raised.
- The overarching message of this submission is that, to this point in time, the P&C insurance industry has been quite pleased with FSRA’s focus on leading positive change to the ways our industry is regulated. It is our strong hope, therefore, that over the coming year FSRA will be in a position to apply this approach to the many challenges of making transformational reform of Ontario’s auto insurance system a reality.